MONTHLY HIGHLIGHTS

NOAA
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
HABITAT CONSERVATION DIVISION

July 2004

GLOUCESTER, MA OFFICE, ONE BLACKBURN DRIVE, GLOUCESTER, MA 01930

LICENSE AMENDMENT APPLICATIONS NOTICED FOR PENOBSCOT RIVER PROJECTS

As part of the Penobscot River Settlement Accord, PPL Maine and Bangor Pacific Hydro Assoc. has submitted a license amendment for Veazie, Milford, Stillwater, Medway, and West Enfield projects, and a new license application for the Orono project was noticed by the Federal Energy Regulatory Commission (FERC) on July 8, 2004. The license amendment applications seek to modify upstream and downstream fish passage requirements, add new turbines, modify stream flows, establish mitigation funds, and/or increase the headpond by one foot. The Orono project will be a run-of-river facility on the Stillwater branch of the Penobscot River. The applicant seeks to reduce bypass channel flows and not incorporate upstream passage; anadromous fish making it to the dam would be trapped and trucked to another location on the main stem of the Penobscot River. No mitigation is offered for the project because of the other Marine Protection Act actions, but will create a contingency mitigation fund in the event that those other options are not exercised. FERC has also noticed a request for additional studies (Aug. 24 deadline) for Orono project's new license application review. NOAA Fisheries has filed a motion to intervene in this proceeding and will provide comments on these applications. **(sean.mcdermott@noaa.gov, 978/ 281-9113)**

AGENCIES FILE WITH FERC TO INTERVENE ON WEST WINTERPORT PROJECT

On 28 June 2002, FERC approved the license surrender for the John C. Jones project on the North Branch Marsh Stream. Surrender of the exempt project license included full dam removal. In an issuance on 18 June 2004, FERC amended the surrender order deleting the requirement for dam removal after receiving a copy of an agreement between the Town of Winterport and the project owner. On July 19, NOAA Fisheries, along with U.S. Fish and Wildlife Service (USFWS) and other state agencies, filed a request for rehearing and motion to intervene. FERC has accepted these actions and has requested additional time to provide a response. **(sean.mcdermott@noaa.gov, 978/ 281-9113)**

EELGRASS SITE VISIT AT MEREPOINT, MAINE

The boat ramp proposed by the Maine Department of Inland Fish and Wildlife at Merepoint, Brunswick, Maine continues to be highly controversial. One point of concern is the extent of eelgrass directly and indirectly affected by the project. A site visit on July 21 was set up to confirm the delineation of eelgrass by the applicant's consultant. Approximately 15 people, including representatives for the opponents, proponents, state resource agencies, and eelgrass experts from New Hampshire and Maryland, were present. Staff from U.S. Environmental Protection Agency (USEPA) and NOAA Fisheries, along with Fred Short from the University of New Hampshire - hired by opponents to the project - snorkeled around

the project area. The eelgrass delineation by the consultant appeared accurate. Discussion on dry land covered a range of topics specific to the eelgrass, including direct impacts from construction, secondary impacts from use of the facility, cumulative impacts associated with increased development and boat use of the area, and possible avoidance and mitigation options. NOAA Fisheries staff indicated concerns related to impacts on essential fish habitat (EFH) and the loss of eelgrass, fringing saltmarsh, and intertidal habitat, and the difficulty for developing proper compensatory mitigation to suitably offset the proposed impacts. The site visit was a pre-application meeting; no application is currently filed with the Army Corps of Engineers (ACOE). **(sean.mcdermott@noaa.gov, 978/ 281-9113)**

LIQUEFIED NATURAL GAS WORKSHOP

The HCD recently participated in a Liquefied Natural Gas (LNG) workshop at NOAA Headquarters in Silver Spring, MD. The purpose of this workshop was to discuss issues related to LNG and potential impact on marine resources resulting from site development and operation. While level and type of impact is specific to the individual project location and facility, issues relating to intake structures, thermal pollution, dredging, and pipelines within marine habitats are of concern to the HCD. Nationwide, a number of LNG terminals have been proposed within both inshore and offshore waters. NOAA Fisheries coordinates with FERC for coastal projects and the US Coast Guard for offshore projects, and provides conservation recommendations to avoid, minimize, and/or mitigate for impacts on NOAA trust resources. **(Christopher.Boelke@noaa.gov, 978/ 281-9131)**

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HACKENSACK MEADOWLANDS

Several significant projects were discussed at this month's Meadowlands Interagency Mitigation Advisory Committee (MIMAC) meeting including the Meadowlands Mills/Mack-Cali Limited Partnership Xanadu project and the Access to the Region's Core project proposed by New Jersey Transit (NJT).

Project proponents for Xanadu presented the compensatory mitigation proposal for the mixed use development to be built on the New Jersey Sports and Exposition Authority's (NJSEA) property next to the Continental Airlines Arena. The project includes entertainment/retail space, office space, parking decks, a hotel, and a baseball stadium. It essentially replaces the Meadowlands Mills mega-mall proposed for the Empire site some time ago, although the applicant has not formally withdrawn the ACOE permit application for that project. The wetland impact estimate now stands at 7.69 acres. The current mitigation proposal is the preservation of 235 acres of the 587-acre Empire site either by deed restriction or conservation easement. The applicants propose to claim mitigation credit for preserving part of the Empire site. The NJSEA also proposes to reserve a portion of the site after it is donated or deed restricted for use as compensatory mitigation, for transportation improvements that may require fill as part of the Xanadu site redevelopment (i.e., a rail line). The federal agencies present at the meeting (ACOE, EPA, and NOAA Fisheries) have concerns about the proposed mitigation. All agreed that preservation alone is not acceptable as compensatory mitigation. The mitigation must include a restoration component. The ratio can be reduced to account for the preservation. Also, the proposed preservation site does not appear to be under eminent threat. This is one of the considerations in the ACOE/EPA regulatory guidance letter on the subject and one of the criteria in the NOAA policy on land acquisition developed in 1998 during the Special Area Management Plan process.

Consultants for New Jersey Transit (NJT) talked about the proposed access to the Region's Core project (www.accesstotheregionscore.com) to increase the rail system's capacity to move people between New

York and New Jersey. It was determined that the most efficient and effective way to do this would be to construct a new connection between the states. The preferred alternative is to construct a new two-track commuter rail tunnel from Weehawken to New York City next to the existing Penn Station. For the tunnel under the Hudson River, NJT hoped to use a boring machine for the entire length. However, on the New York side, there may be insufficient cover over the tunnel to allow boring and an immersed tube may need to be used. In New Jersey, most of the project will be along the existing Northeast Corridor right-of-way to the Secaucus Station. Also proposed is the reactivation of a small portion of the inactive Booton line. A new rail yard may also be constructed in the Meadowlands adjacent to the PSEG property adjacent to Penhorn Creek. The draft Environmental Impact Statement (DEIS) is not expected to be released until some time in the first half of 2005. **(Karen.Greene@noaa.gov, 732/ 872-3023)**

CROSS HARBOR FREIGHT TUNNEL

HCD staff at Sandy Hook met with the project proponents and consultants for the Cross Harbor Freight Tunnel project to discuss the project. The Federal Railroad Administration and the Federal Highway Administration have prepared a DEIS on behalf of the New York City Economic Development Corporation for the construction of a new rail freight crossing of the Hudson River. The preferred alternative is the construction of a new rail tunnel under the harbor from the Greenville Yard in Jersey City, NJ to the 65th Street Yard in Brooklyn, NY. A new rail yard would also be constructed in Maspeth, Queens, NY. The portion of the tunnel from the Greenville Yard to the end of the Global Marine Terminal will be installed using an immersed tube method. The remaining portion of the tunnel will be built using bored tube technology. The proponents provided an overview of the project and how the alternatives were evaluated. HCD staff commented on the information that is needed but was not apparent in the DEIS, as well as some concerns about the dredging for the immersed tube installation near the Jersey Flats. We also discussed the need to include the water areas as separate study areas, and the need to initiate an ESA consultation with our Protected Resources Division. Written comments on the DEIS are due September 30, 2004. **(Karen.Greene@noaa.gov, 732/ 872-3023; Stanley.W.Gorski@noaa.gov, 732/ 872-3037; or Diane.Rusanowsky@noaa.gov, 203/ 882- 7004)**

ROSEN PARTNERS I LLC.

Several months ago, representatives of the ACOE, USEPA, USFWS, the New Jersey Department of Environmental Protection (NJDEP), and HCD staff met in Edgewater to view several contiguous sites along the Hudson River and to discuss possible agency concerns with upcoming projects and the NJDEP's requirements for the Hudson River walkway. One applicant, Rosen Partners I, LLC, had proposed to construct a townhouse complex, pool, and a pile supported pedestrian waterfront walkway over tidal waters of the Hudson River. The original application proposed a 775 linear foot long and 10 foot wide walkway, approximately 205 linear feet of which was proposed to be constructed over mudflats and shallow water habitat. Through the efforts of the involved agencies and the applicant, the project was redesigned so that the walkway is over the existing uplands and the impacts on NOAA trust resources have been minimized. **(Karen.Greene@noaa.gov, 732/ 872-3023)**

MORDECAI ISLAND, BARNEGAT BAY, NJ

Habitat staff met with state and federal agencies at a joint permit processing meeting on July 14, 2004 to discuss the results of a submerged aquatic vegetation survey and the shoreline protection alternatives for the Mordecai Island Restoration Project. Continued erosion of Mordecai Island threatens an abundant diversity of natural wildlife habitats including open marsh, salt ponds, exposed mud flats, shrub-dominated areas, and shallow water eelgrass beds. Partners in the project include the ACOE, Mordecai Land Trust, NJDEP, and the USFWS. A ground-truth survey confirmed the aerial photography that indicates eelgrass beds (*Zostera marina)* exist in shallow water in a narrow band 50-60 feet wide on the western side of the island. Because of the proximity to the navigation channel with the associated wakes from vessel traffic, and the long fetch across the bay, which allows for greater wave heights, it was determined that a breakwater would be designed to protect the shoreline by intercepting waves and

reducing wave energy. The placement of the proposed breakwater is located so that the eelgrass beds will not be impacted. A design comparison study was performed by Stevens Institute at the Davidson Laboratory High Speed Towing Tank which evaluated the wave attenuation characteristics of three vertical slat breakwaters under a variety of incident wave conditions typical of storm waves and boat wakes in the vicinity of Mordecai Island. The results indicate that a breakwater with 3" by 12" planks placed 2" apart is the most effective design. It allows less than 50% of the shortest wave tested and less than 70% of the longest wave tested to pass through the structure, making the design 30% more effective than what could be achieved by the design standard of Coastal Zone Management (CZM) rules. All the designs provided the 18 inch open space on the bottom (as per CZM), but the recommended design uses 12" wide planks, spaced 2" apart instead of the maximum 6" width and 3" spacing as per CZM guidelines. **(anita.riportella@noaa.gov, 732/ 872-3116)**

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RECREATIONAL BOATING ON THE UPSWING

Marina development activities are increasing in southern New England and the mid-Atlantic. A number of people in the recreational boating industry report that one effect of the events of 9/11 has been a surge in boating along the northeastern coast. They report that both the desire to be "safe" and the recognition that it's acceptable to spend the kids inheritance are being mentioned as drivers of the trend. While 18 to 25 foot boats continue to dominate the market, boat sales and registration statistics demonstrate a significant increase for vessels in the 26 to 35 foot range. Even for the mega-yacht category we see a similar, but proportional, trend. Yachts in the 75 to 150 foot length are now commonly seen plying the waters we watch between Cape Cod and New York City. Companion to the increased presence and use of recreational water craft is a significant change in the attitudes among boaters. In particular, power boaters are seeking "destination sites" and the comforts of landside facilities at those sites for their boating experience. This means more pressure on transitory marina facilities at destination sites such as the coastal islands and other scenic ports. Compounding the pressures created by those shifts is the trend toward group cruises that bring a number of vessels into a port. The Cruisers typically seek adjacent or nearby berths and a diversity of landside facilities. In response, destination site marinas are seeking more and larger slips with enhanced infrastructure, and services that highlight the benefits of berths over moorings. The impacts of expanding marina space over mooring area create some interesting issues. Not the least is the reduced likelihood that berthed mariners will discharge "head" wastes into local waters. This is partially explained by the availability of "pumpout" facilities dockside. However, with the designation and monitoring of "no discharge" zones and the availability of state and federal grants for shoreside and vessel mounted pumpout facilities, waste discharge events are being eliminated from most coastal waters. **(Michael.Ludwig@noaa.gov, 203/ 882-6504)**

HABITAT CONSERVATION MEASURES FOR PORT DREDGING PROJECTS

Port improvement continues to dominate the dredging activities in the Rhode Island to New York region. Work in the Providence River, RI, ports in New London, New Haven, Bridgeport and Norwalk, CT as well as the Port of New York and New Jersey have or will tie up so much dredging equipment that scheduling is being impacted. Because port maintenance and improvement projects tend to require a protracted period of time (measured in months to years) for relocating the millions of cubic yards of sediment involved, all operational constraints are being reviewed. We are seeing that non-attainment of designated air quality levels is a major problem. Another issue is cost effectiveness as mobilization and demobilization costs can become major complications to an action. One of the consequences of those problems/pressures is that EFH conservation recommendations that limit the window in which dredging can occur are being scrutinized. While most agree that the issue is not often the conservation recommendations, resource protections are the easiest restrictions to overcome, and so they are usually

the first topics in a negotiation session. We have been fortunate in working with the New York and New England ACOE Districts to find solutions that allow aquatic resource protections to remain in place and construction activities to proceed. Sequential dredging shifts equipment to portions of projects during periods that do not possess species or life stages of focus resources, and collection and application of resource and dredging interaction insights have been key to our successes. While not all situations result in amicable solutions, it is important to note that failures are an infrequent and unusual conclusion of the negotiations between engineers and ecologists. **(Michael.Ludwig@noaa.gov, 203/ 882-6504)**

GOETHALS BRIDGE MODERNIZATION
Milford Field Office staff attended a pre-application meeting concerning a future proposal by the Port Authority of New York and New Jersey to replace the existing Goethals Bridge across the Arthur Kill between New Jersey and Staten Island, New York. State and federal resource and regulatory agencies attended the meeting, which was held as a prelude to the upcoming NEPA process. Future coordination will commence in September 2004. **(Diane.Rusanowsky@noaa.gov, 203/ 882-6504)**

WATERFRONT ESPLANADE CONTEMPLATED AT UNITED NATIONS
In conjunction with facility upgrades at the United Nations site in Manhattan, a proposal to construct a waterfront park esplanade over the East River is being contemplated. This project, which involves construction of a new platform to facilitate development of public access and appurtenant park facilities, will require in-depth coordination with NOAA Fisheries pursuant to the essential fish habitat components of the Magnuson-Stevens Fishery Conservation and Management Act, NEPA, the Clean Water Act, the Fish and Wildlife Coordination Act, and other pertinent statutes. **(Diane.Rusanowsky@noaa.gov, 203/ 882-6504)**

NEPTUNE PROJECT UPDATE
The project proponents for this high voltage, direct current transmission project intended to address load needs on Long Island with generation from facilities in New Jersey have revised portions of their routing and construction plan. Staff from the Sandy Hook and Milford Field offices are coordinating with the New York District, ACOE on the revised project elements. Additional information is necessary to complete this coordination, particularly with regard to channel crossings in New Jersey. In particular, consultations must be re-initiated with NOAA Fisheries for EFH and Section 7 of the Endangered Species Act. **(Karen.Greene@noaa.gov, 732/ 872-3023; Diane.Rusanowsky@noaa.gov, 203/ 882-6504)**

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INDIAN RIVER INLET BRIDGE REPLACEMENT (SUSSEX CO., DE)
At the Delaware Department of Transportation (DELDOT) quarterly meeting in July, a compensatory mitigation plan was distributed for the referenced proposal. The critical aspects of the plans are design of the tidal channels, the layout of the various habitats, and the acreage of each. The plans also include upland habitat mitigation for diamondback terrapins. The plan was subsequently approved at the July Joint Permit Processing meeting.

Construction of the new bridge will result in the filling of approximately 3.6 acres of wetland and 0.5 acres of shallow water. About 1/3 of the wetland total encompasses roadside ditches and drainage swales along the existing highway. Approximately 3 acres of tidal wetlands are to be created at a site called Fresh Pond North. Additional wetland compensation acreage needed for the project will be developed at a site called Fresh Pond South, which may generate up to 6 acres. The acreage above and beyond that needed for the Indian River Bridge project can be reserved for future DELDOT projects in the vicinity.

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I-95 Improvements (New Castle Co., DE)
Improvements needed for I-95 to alleviate congestion and safety problems will require filling 1.5-2.0 acres of wetlands and tidal water habitats in the Christina River Basin. Five sites were field reviewed in July. As a result of the review, three sites were eliminated, while two were retained for detailed study, including HazMat assessment. Both sites are contiguous with the Christina River, and both are previously filled wetland sites. **(Tim.Goodger@noaa.gov, 410/ 226-5606)**